

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT Z-291 827-D7  
AND ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: Karl E. L. KARLSSON

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1784

Karl E. L. KARLSSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 23 December 1968, an Examiner of the United States Coast Guard at New York, N. Y., revoked Appellant's seaman's document upon finding him guilty of misconduct. The specifications found proved allege that while serving as an engineer-crane maintenance on board SS SEATRAN FLORIDA under authority of the document above captioned, Appellant:

- (1) on 28 September 1967, at sea, disobeyed a lawful order of the first assistant engineer not to enter the the engine room of the vessel without first advising the Chief or first assistant engineer and to perform no functions in the engine room except under proper supervision;
- (2) on 5 October 1967, at Naha, Okinawa, attempted to provoke the second assistant engineer into striking him, and profanely defied that officer;
- (3) on 5 October 1967, at Naha, Okinawa, threatened the first assistant engineer with bodily harm; and
- (4) on 5 October 1967, at Naha, Okinawa, failed to obey a lawful order of the master to remain aboard the vessel.

Appellant did not appear at the hearing after the first session, at which he was not represented by counsel. The Examiner entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence voyage records of SEATRAN FLORIDA.

There was no defense offered.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order revoking all documents issued to Appellant.

the entire decision was served on 2 January 1969. Appeal was timely filed on the same day. Although time was permitted, Appellant furnished nothing in support of his appeal after the original notice.

#### FINDINGS OF FACT

On all dates in question Appellant was serving as an engineer-crane maintenance on board SS SEATRAN FLORIDA and acting under authority of his document.

At the times and places in question, Appellant performed the acts alleged in the specifications as found proved by the Examiner.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that Appellant had insufficient time to prove his medical condition at the times of the alleged incidents.

APPEARANCE: Appellant, pro se.

#### OPINION

##### I

The hearing in this case was opened before an Examiner in Miami, Florida, on 16 October 1968. Appellant appeared without counsel, but declared that his professional counsel at New York had directed him to request a change of venue for New York. For the convenience of Appellant and his counsel, the Examiner at Miami granted the motion for change of venue to New York, setting date, time, and place certain for reopening. The Examiner advised Appellant that if appearance were not timely made at New York the hearing could proceed to conclusion in his absence.

Appellant did not appear as directed, at 1000 on 6 November 1968 in New York. Neither did he communicate, to that time, with any Coast Guard official at New York. The Examiner at New York reopened the hearing at 1540 on 6 November 1968. The information was placed in the record at this time that the attorney named by Appellant in Miami had advised the Investigating Officer by telephone that he had recently received a letter from Appellant asking him to appear for Appellant at the New York proceeding but that the attorney had no knowledge of the case, was in no way

associated with it, and would not appear.

In order to complete the record needed, by obtaining certain documents relative to procedure, the Examiner adjourned until 1400 on 19 November 1968. By letter, the Examiner advised Appellant both of the named counsel's failure to and refusal to appear and of the new date and time for proceedings. On 19 November the Examiner was absent from New York, but he reopened proceedings on 22 November 1968.

At this time, it was placed in the record that:

- (1) Appellant had not appeared on 19 November 1968;
- (2) Appellant had written in reply to the Examiner's letter that the named attorney was his lawyer, and asking for further postponement until after 1 January 1969, and
- (3) that the named counsel had repeated both in writing and by telephone that he had no part in the case.

To obviate misunderstanding, the Examiner again adjourned until 1000, 6 December 1968, and advised Appellant of the situation. On that date the hearing proceeded to conclusion without further appearance of or communication from Appellant.

## II

The recitation of procedure given above shows that Appellant's contention that he was not given enough time to prove his medical condition (not actually placed in issue in open hearing) is unfounded and even specious.

## III

The evidence on the merits adduced at the hearing comprised the articles of SEATRAN FLORIDA, which proved Appellant's service, and official log book entries made in substantial compliance with the statutes. The log entries were prima facie evidence of the facts recited therein, and constituted substantial evidence such as to support the Examiner's findings.

## IV

Although Appellant does not protest the severity of the order of revocation, it may be noted that his prior record amply called for such an order by the Examiner.

ORDER

The order of the Examiner dated at New York, N. Y., on 23 December 1968, is AFFIRMED.

W. J. SMITH  
Admiral, U. S. Coast Guard  
Commandant

Signed at Washington, D. C., this 24th day of March 1970.

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